
STATE OF UTAH

DEPARTMENT OF INSURANCE

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

MERCEDES BROOKS,
Insurance License Applicant,

Respondent.

ORDER

Docket No. 2017-083 LC

E. No. 3934

Administrative Law Judge

Lisa Watts Baskin

This matter came before the undersigned on October 5, 2017, at 2:00 p.m., for a license denial hearing. Ms. Mercedes Brooks, (hereafter "Respondent"), appeared *pro se*. Mr. Reed Stringham, Assistant Utah Attorney General, appeared for the Utah Insurance Department, hereafter ("Complainant"). The administrative hearing was held as a formal proceeding pursuant to the September 21, 2017 Order of Conversion to Formal Proceeding. The matter was recorded.

PROCEDURAL BACKGROUND

Respondent filed a timely written hearing request to challenge the Complainant's license denial for a resident producer individual license. The license application was denied on August 31, 2017, pursuant to Utah Code Ann. Subsections 31A-23a-107(2)(a) and 31A-23a-

111(5)(a)(iv), (5)(b)(iv). Respondent filed a timely request for review on September 7, 2017. Both parties stipulated in the Scheduling Order of September 27, 2017, that discovery was not necessary and documents or exhibits would be exchanged by either party within seven (7) days of the hearing.

Based on the foregoing, Complainant's exhibits and witness testimony, and on Respondent's testimony, the undersigned makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On August 2, 2017, Respondent Mercedes Brooks, a resident of Utah, applied for a resident producer individual license.¹
2. Respondent's application was denied on August 31, 2017.² The denial letter stated, "Your application for a resident producer individual license in Utah dated August 2, 2017, is hereby **denied**. The denial is based on one or more of the following: As a result of failing to pay final judgment rendered against you in this state within 60 days after the day on which the judgment became final, you are in violation of Utah Code Ann. § 31A-23a-111(5)(b)(iv). As a result of a conviction of retail theft, a Class B misdemeanor, you failed to meet the character requirement of trustworthiness pursuant to Utah Code Ann. § 31A-23a-107(2)(a)." [Bold in original].
3. Complainant's grounds for denial were based upon Respondent's guilty plea to Retail Theft, (Shoplifting), a violation of Utah Code Ann. § 76-6-602, Class B

¹ Complainant Ex. 1, Application.

² Complainant Ex. 7, Denial Letter.

Misdemeanor, which she entered on August 19, 2015, and reached final disposition on February 10, 2016.³

4. Complainant's denial was also based upon Respondent's failure to pay debts within 60 days of final judgment. On March 30, 2017, the balance of \$598.04, which was still owed for the shoplifting offense, was transferred to Office of State Debt Collection.⁴ On July 3, 2014, a judgment of \$6,595.00 was entered against Respondent and Johnathon Nixon.⁵ On March 31, 2015, a default judgment of \$554.42 was entered against Respondent.⁶ On June 4, 2015, a default judgment of \$1,065.00 was entered against Respondent.⁷ Complainant established that the none of the judgments had been satisfied. R. at 21:07-27:13.
5. Respondent admitted under oath that none of the judgments have been satisfied within 60 days. R. at 6:18-8:46. Nevertheless, Respondent testified that she was meeting with a debt consolidator on October 6, 2017, the day following this hearing, to address those outstanding debts. R. at 35:46-36:25.
6. On or about September 7, 2017, Respondent filed a timely written request for an administrative hearing to appeal the license denial decision.
7. At the license denial hearing, Respondent provided no witnesses and no documents. However, she provided personal testimony under oath regarding her sincere desire to become licensed by already passing the licensed resident producer examination

³ Complainant Ex. 2, Fourth District Court Docket, American Fork City v. Mercedes Vanetta Brooks, Misdemeanor.

⁴ Complainant Ex. 2, at p. 8.

⁵ Complainant Ex. 4, Fourth District Court Docket, Doug Smith Autoplex v. Mercedes Brooks, Abstract of Judgment. Nixon later declared bankruptcy on 02-23-2015. Ex. 4, at p. 4.

⁶ Complainant Ex. 5, Third District Court Docket, Bonneville Billing and Collect v. Mercedes Brooks, Debt Collection.

⁷ Complainant Ex. 6, Salt Lake County Justice Court, 1st Choice Money Center v. Mercedes Brooks, Small Claim.

and by reconciling her debts in order to obtain a permanent career position and properly care for her children. R. at 4:30-6:18; 36:13-37:20; 42:04-44:40.

8. Based upon the evidence presented at the hearing, Respondent failed to prove by a preponderance of evidence that the insurance application was improperly denied. Utah Admin. Code R590-160(10).

CONCLUSIONS OF LAW

1. The department has jurisdiction over the parties and subject matter of this administrative action. Utah Code Ann. §§ 31A-1-105 (2000); 31A-2-201 (2010); 63G-4-201 (2010); 31A-23a-101 et seq., and Utah Admin. Code, R590-160.
2. Respondent, in being convicted of a Class B misdemeanor, is prohibited from engaging in the business of insurance under the Utah Code Ann. § 31A-23a-107(2)(a).
3. Respondent, in having failed to pay four outstanding debts within 60 days of final judgment, is prohibited from engaging in the business of insurance under Utah Code Ann. § 31A-23a-111(5)(b)(iv).
4. Respondent failed to satisfy the burden of proof that she can meet the statutory requirements of competence and trustworthiness under Utah Code Ann. §§ 31A-23a-107(2).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge hereby enters the following Order:

The August 31, 2017 Notice of Informal Agency Action and Order, denying Respondent's application for an individual resident producer license is affirmed; and Respondent's August 2, 2017 Application for an insurance license is hereby denied.

DATED this 11th day of October, 2017.

A handwritten signature in cursive script, reading "Lisa Watts Baskin", is written over a horizontal line.

LISA WATTS BASKIN
Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114

JUDICIAL REVIEW

To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for agency review with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court. Utah Code Ann. § 63G-4-403.

CERTIFICATION OF MAILING

The undersigned hereby certifies that on this date, a true and correct copy of the **ORDER** was mailed, postage prepaid and electronically, to the following:

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Dated this 11th day of October, 2017.



Jeanne Mitchell
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